

REMARKS

Prior to entry of this Amendment, Claims 1-10 were pending and under consideration. With this Amendment prior Claims 4-10 are amended (prior Claims 5-10 being renumbered 7, 13, and 25-28) and new Claims 5, 6, 8-12, 14-24 are being added. Thus, after entry of this Amendment, Claims 1-28 are pending and under consideration.

Sequence Listing Objections and Response Notice to Comply

The specification was objected to because it is asserted that paragraph [0010], line 4, did not contain an appropriate SEQ ID NO as required under 37 C.F.R. §1.821.

Section 1.821 states in relevant part

(a) Nucleotide and/or amino acid sequences as used in §§ 1.821 through 1.825 are interpreted to mean an unbranched sequence of four or more amino acids or an unbranched sequence of ten or more nucleotides. Branched sequences are specifically excluded from this definition. **Sequences with fewer than four specifically defined nucleotides or amino acids are specifically excluded from this section.** "Specifically defined" means those amino acids other than "Xaa" and those nucleotide bases other than "n" defined in accordance with the World Intellectual Property Organization (WIPO) Handbook on Industrial Property Information and Documentation, Standard ST.25: Standard for the Presentation of Nucleotide and Amino Acid Sequence Listings in Patent Applications (1998), (emphasis added).

Applicants submit that paragraph [0010], line 4, discloses a formula and is not subject to the amino acid sequence requirements of 37 C.F.R. § 1.821. Specifically, the specification discloses the formula A-B-C-D-E at paragraph [0010], line 4. The specification then goes on to describe the formula, wherein A is absent or is 1 or 2 residues, B is two residues, C is from 3 to 5 residues, D is 1 residue, and E is absent or is upto 8 residues. Clearly, A-B-C-D-E is a combination of symbols used to express an almost infinite number of oligopeptides and does not fall within the requirements of § 1.821.

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In addition, amino acid sequences with fewer than four specifically defined amino acids are specifically excluded from § 1.821. Applicants respectfully submit the formula A-B-C-D-E lacks four specifically defined amino acids as defined in the World Intellectual Property Organization (WIPO) Handbook on Industrial Property Information and Documentation, Standard ST.25: Standard for the Presentation of Nucleotide and Amino Acid Sequence Listings in Patent Applications (1998). Thus, Applicants request withdrawal of the objection.

The Examiner asserts that Applicants are required to amend the specification to insert SEQ ID NOs in the brief description of the drawings. Applicants have reviewed paragraphs [0013] and [0014] of the specification and submit that no amino acid sequences are disclosed in the brief description of the drawings. Thus, Applicants submit that SEQ ID NOs are not required under § 1.821 in the brief description of the drawings.

In summary, Applicants respectfully submit that no additional SEQ ID NOs are required in the specification and respectfully request withdrawal of all objections.

In response to the Notice to Comply with Requirements for Patent Applications with Sequence Disclosures, Applicants are not amending the specification to include additional SEQ ID NOs and respectfully submit that the instant application is in full compliance with 37 C.F.R. §§ 1.821-1.825, and a substituted sequence listing is therefore not required.

Multiple Dependent Claim Objection

Claims 5 and 8 were objected under 37 C.F.R. § 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim. Claims 5 and Claim 8 were amended to eliminate improper multiple dependency. No new matter has been added by these amendments and Applicants respectfully request withdrawal of this objection.

Claim 4 was amended to eliminate multiple dependency and Claims 5-6 were added. Claim 6 was amended, renumbered Claim 13 and Claims 14-24 were added. Remaining Claims 7, 9 and 10 were

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amended to correct dependency and renumbered 25, 27, and 28, respectively. No new matter has been added by these amendments.

Double Patenting Rejections

Claims 1-10 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-10 of U.S. Patent No. 6,696,545. Submitted herewith is a terminal disclaimer directed to U.S. Patent No. 6,696,545. Applicants respectfully request withdrawal of this rejection.

Claims 1-10 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over pending Claims 9 and 10 of pending U.S. Application no. 10/376,647. Applicant respectfully submit that the provisional double patenting rejection is improper. Application no. 10/376,647 was filed on February 26, 2003. The instant application was filed February 17, 2004, and is a continuation of U.S. Serial No. 09/028,083, filed February 23, 1998, now U.S. Patent No. 6,696,545, which is a continuation-in-part of pending U.S. Serial No. 08/838,916, filed April 11, 1997. Applicants respectfully request withdrawal of this rejection.

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Conclusion

Based on the foregoing, Applicants submit Claims 1-28 are in condition for allowance. An early indication of the same is therefore respectfully requested. If any matters can be resolved by telephone, the Examiner is invited to call the undersigned attorney at the telephone number listed below.

Respectfully submitted,
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